

Τ ΥΨΩΠΑΪΟΡΦΩ

*Kevin H. Sharp*

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                                )  
v.                            ) No: 3:09-cv-0812  
                                ) Judge Sharp  
RICHARDSON M. ROBERTS, et al., ) Magistrate Judge Brown  
                                )  
Defendants.                )  
                                )

**MOTION TO CERTIFY QUESTIONS TO  
THE UNITED STATES COURT OF APPEALS  
ON INTERLOCUTORY APPEAL**

Richardson M. Roberts (“Mr. Roberts”) and Bucksnort RR Ranch LLC (“Ranch”) (collectively referred to as “Defendants”) move for permissive interlocutory appeal, pursuant to 42 U.S.C. § 1292(b), seeking that this Court should certify these three questions to the United States Court of Appeals for the Sixth Circuit:

1. Is the attempt by the United States of America to enforce Section 404 of the Clean Water Act according to two disparate definitions of “navigable waters” unconstitutionally vague as applied to this Defendant?
2. What is the definition of “navigable waters” in Section 404?
3. What is the definition of a “farm pond” in Section 404?

With the greatest respect for this Court, the Defendants base this motion on this Court’s order of September 30, 2013, (Docket No. 266) in which this Court